

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER

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|--------------------------------|---|--------------------------------------|
| KRISTOPHER R. MAJORS and wife, |) | |
| CARIE MAJORS, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. 4:12-CV-00058 |
| |) | District Judge Harry S. Mattice, Jr. |
| STATE AUTO PROPERTY & |) | Magistrate Judge William B. Carter |
| CASUALTY COMPANY, |) | |
| |) | |
| Defendant, |) | |
| |) | |
| and |) | |
| |) | |
| CITIMORTGAGE, INC., |) | |
| |) | |
| Defendant by Amendment. |) | |

AMENDED COMPLAINT

1. The plaintiffs Kristopher R. Majors and wife Carie Majors are the owners of certain real property located at 2032 Mansford Road, Winchester, Franklin County, Tennessee, 37398, deeded to the plaintiffs by deed of record in Deed Book 298, Page 387, Register's Office of Franklin County, Tennessee, to which reference is herein made for more particulars.

2. The defendant State Auto Property & Casualty Company ("State Auto") is a duly organized insurance company doing business in the State of Tennessee.

3. The defendant CitiMortgage, Inc., is a financial institution with its offices and Insurance Claim Center at Post Office Box 8855, Springfield, Ohio, 45501-8855.

4. On or about February 24, 2011, the plaintiffs suffered a fire loss at their home located at the aforesaid 2032 Mansford Road, Winchester, Tennessee. The home was severely

damaged as a result of the fire together with water damage from the fire department during the extinguishing of the fire. The plaintiffs also suffered the loss of their personal property in the residence.

5. At the time of the fire loss the plaintiffs were insured with the defendant State Auto under Policy Number HT 0035719. The plaintiffs have made due demand upon the defendant to pay the damage to the improvements located on the real property referenced above; but the defendant, wrongfully and in bad faith, has refused to properly compensate the plaintiffs for the amount of the loss and damage to the residence referenced above. As a result of the dilatory tactics of the defendant State Auto, the plaintiffs were compelled to retain the services of an adjusting company known as First Call, Inc., located at 608 West Iris Drive, Nashville, Tennessee, 37204, to assist them in handling their fire loss claim. With the assistance of First Call, Inc. the plaintiffs were able to eventually settle the personal property claims, but the defendant State Auto wrongfully and in bad faith continues to stonewall with regard to the damage to the residence itself.

6. The plaintiffs have obtained repair estimates for the dwelling itself in the amount of \$91,489.71. This excludes repair to the roof, electrical wiring, and the air conditioning and heating system. The plaintiffs would show at the trial of this cause that the defendant State Auto has wrongfully dealt in bad faith with the plaintiffs with regard to a fire loss that is now well over one year old. The plaintiffs allege that they would be entitled to recover the bad faith penalty as provided under Tenn. Code Ann. §56-7-105, together with the damages as hereinabove referenced.

7. The plaintiffs would further show unto the court as further evidence of the defendant's bad faith that the defendant State Auto has cut off the plaintiffs' additional living

expenses, the defendant State Auto knowing full well that the plaintiffs can no longer pay rental expenses on a place for them to live and their minor child, and they continue to make house payments on a house that they cannot use.

8. The plaintiffs would show unto the court that the defendant CitiMortgage, Inc. is the lien holder on the property on the property in question, and the plaintiffs should be entitled to relief from the payment of the mortgage and that the defendant State Auto satisfy the obligation of the defendant CitiMortgage, Inc. and that the defendant CitiMortgage, Inc. assert its claims against the defendant State Auto or be barred from recovery against the plaintiffs.

WHEREFORE, the plaintiffs sue the defendant State Auto for damages for breach of the insurance contract in the amount of \$91,489.71 for general repair to the residence, together with an additional \$12,000 for estimated roof, electrical and heating and air repair and/or replacement, together with punitive damages for bad faith as provided under Tenn. Code Ann. §56-7-105, together with the plaintiffs' reasonable attorney fees, and the plaintiffs demand a jury to try the issues when joined; and the plaintiffs further pray for relief from the payment of the mortgage of the defendant CitiMortgage, Inc. and that the defendant CitiMortgage, Inc. be obligated to assert its claim against the defendant State Auto or be barred from recovery against the plaintiffs, and that in this regard be granted general relief.

Respectfully submitted,

SWAFFORD, PETERS, PRIEST & HALL

By: /s/ Robert S. Peters
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Majors and Carie Majors

CERTIFICATE OF SERVICE

I, Robert S. Peters, certify that on the 26th day of February, 2013, a copy of the foregoing Amended Complaint was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the court's electronic filing system.

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By: /s/ Robert S. Peters